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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,516	08/30/2001	John E. Auer	2000P09059US01	8141
43713 7590 08/24/2007 JACK SCHWARTZ & ASSOCIATES 1350 BROADWAY, SUITE 1510 NEW YORK, NY 10018			EXAMINER COBANOGU, DILEK B	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 08/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/942,516

Applicant(s)

AUER, JOHN E.

Examiner

Dilek B. Cobanoglu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/30/01, 10/23/03, 11/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment received on 06/07/2007. Claims 7 and 17 had been canceled on 05/18/2006. Claims 1 and 20 have been amended. Claims 1-6, 8-16, 18-23 remain pending in this application.

Claim Rejections - 35 USC § 112

2. The 35 USC § 112 rejection of claims 1-6 and 8-10 due to lack of comprising components of the system has been withdrawn in light of the amendment made to independent claim 1.

3. The 35 USC § 112 rejection of claim 20 due to the typographical error has been withdrawn in light of the amendment made to this claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8-16 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenberg et al. (hereinafter Schoenberg) (U.S. Patent Publication 2005/0125256 A1) in view of Wallace et al. (hereinafter Wallace) (U.S. Patent No. 6,305,373 B1).

A. As per claim 11, Schoenberg discloses a method for displaying medical information derived from a plurality of sources, comprising the steps of:

- i. acquiring data associated with a patient from at least one of a plurality of sources (Schoenberg; abstract, paragraph 0012);
- ii. prioritizing the acquired data for display in a desired order (Schoenberg; paragraphs 0037, 0042); and
- iii. generating a composite window for displaying said ordered acquired data in a graphical format in a first panel, displaying user specified parameters of said ordered acquired data in tabular format in a second panel (Schoenberg; paragraphs 0052, 0054, 0063), and displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data in a third panel

Schoenberg fails to expressly teach the user-entered ventilator data. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the user-entered ventilator data (Wallace; col. 3, lines 1-14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of controlling the ventilator and displaying the appropriate alarms settings and patient data (Wallace; abstract).

- iv. navigating through the user specified parameters in tabular format by positioning a slider bar included in said second panel (Schoenberg; paragraph 0052); and
- v. controlling a cursor included in said first panel, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format (Schoenberg; paragraphs 0052, 0054).

B. As per claim 12, Schoenberg discloses the method of claim 11.

Schoenberg fails to expressly teach the ventilator data comprising ventilator parameters. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the ventilator data comprising ventilator parameters (Wallace; col. 3, lines 14-18).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of to configure a therapy that is customized for the particular patient (Wallace; col. 4, lines 6-11).

C. As per claim 13, Schoenberg discloses the method of claim 11 further comprising the step of displaying the acquired data within a user-selected time frame (Schoenberg; paragraph 0054).

D. As per claim 14, Schoenberg discloses the method of claim 13 wherein a cursor is displayed indicating a selected time during the selected time frame (Schoenberg; paragraphs 0037, 0054).

E. As per claim 15, Schoenberg discloses the method of claim 14 further comprising the step of displaying a time corresponding to the selected cursor time (Schoenberg; paragraphs 0037, 0054).

F. As per claim 16, Schoenberg discloses the method of claim 15 further comprising the step of providing an annotate icon for allowing a user to enter an annotation for the selected time during the selected time period (Schoenberg; paragraph 0051).

G. Claim 18 repeats that same limitations as claim 11. Therefore, claim 18 is rejected for the same reasons given in the rejection of claim 11 above and incorporated hereinwith.

H. As per claim 19, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in different colors (Schoenberg; paragraph 0052).

I. As per claim 20, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in varying scales (Schoenberg; paragraph 0055).

J. As per claim 21, Schoenberg discloses the system of claim 1 wherein said composite window includes a scalability icon for selecting a time scale of the

displayed acquired data in both said graphical and tabular format (Schoenberg; paragraphs 0037, 0054).

K. As per claim 22, Schoenberg discloses the method of claim 11 further comprising the step of activating a scalability icon included in said composite window for selecting a time scale of the displayed acquired data in both said graphical and tabular format (Schoenberg; paragraph 0054).

L. As per claim 23, Schoenberg discloses the system of claim 1 wherein said concurrent navigation comprises navigation through substantially synchronized user specified parameters in graphical format and tabular format (Schoenberg; paragraphs 0054, 0055).

M. Claim 1 has been amended now to recite in an internet compatible system for displaying medical information derived from a plurality of sources, apparatus comprising:

- i. an acquisition processor for acquiring data associated with a patient from at least one of the plurality of sources (Schoenberg; abstract, paragraphs: 0012, 0041), the processor prioritizing the acquired data for display in a desired order (Schoenberg; abstract, paragraphs: 0037, 0042);
- ii. a display (Schoenberg; paragraphs: 0011, 0030, 0067); and
- iii. a menu generating processor for generating a composite window (Schoenberg; abstract, paragraphs: 0030, 0067) including a first panel for displaying on said display user specified parameters of said ordered

acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data (Schoenberg; abstract, paragraphs: 0052, 0054, 0063);

iv. wherein said second panel includes a slider bar for navigating through the user specified parameters in tabular format (Schoenberg; paragraph: 0052); and

v. said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format (Schoenberg; abstract, paragraphs: 0052, 0054).

N. As per claims 2-6, 8-10, they are system claims, which repeat the same limitations of claims 12-16, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Schoenberg and Wallace disclose the underlying process steps that constitute the methods of claims 12-16, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 2-6, 8-10 are rejected for the same reasons given above for claims 12-16.

Response to Arguments

6. Applicant's arguments filed 06/07/2007 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in order in which they appear.

A. In response to Applicant's argument about Schoenberg does not teach "prioritizing the acquired data for display in a desired order"; Examiner respectfully submits that Schoenberg teaches "a medical information system receiving patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team in a hospital, clinic or office...Access to selected subsets of patient information is provided by user selection of specific data sets identified by job function selection icons" in abstract. Therefore subsets of patient information is identified or prioritized by user selection of job function.

B. In response to Applicant's argument about Schoenberg does not teach "a menu generating processor for generating a composite window (Schoenberg; abstract, paragraphs: 0030, 0067) including a first panel for displaying on said display user specified parameters of said ordered acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data (Schoenberg; abstract, paragraphs: 0052, 0054, 0063); Examiner respectfully submits that Schoenberg teaches a primary display 12 and an associated display

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controller 14 in paragraph 0030, Schoenberg continues in paragraph 0054 that the system presents multiple graphical displays of patient information...user choice of one to four simultaneous displays...each of data sets can be displayed in a variety of formats, including graphical, tabular, bar chart and pie chart formats, with or without split screen. Therefore Schoenberg teaches first, second and third panels, which are in any format described above. Also, Applicant argues that Schoenberg does not teach a third panel, which displays "user selected **one of** user-entered medical notes, medical laboratory results and ventilator data"; Examiner respectfully submits that claim recites any one of medical notes, medical laboratory results and ventilator data; and as Applicant admits that Schoenberg teaches user entry of medical notes and acquisition of medical laboratory results (remarks; page 7, last paragraph).

C. In response to Applicant's argument about Schoenberg does not teach "said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format" Examiner respectfully submits that paragraph 0031 of the specification of this application recite a time slider bar, so that

(0031) "...The user may then use time slider bar 352 to focus on the specific time period within the days specified

in the date navigator 330, so that the particular time period of interest may be displayed on the screen.”

In paragraph 0054 Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously (paragraphs 0015 and 0054) and a time scale as a slider bar, the table below the graph includes numerical data in one minute intervals of time and time scale can be changed for any of all the images, a cursor in paragraph 0037 and in paragraph 0052 multiple simultaneous displays, and tabular, graphical or graphical/tabular display.

D. In response to Applicant's argument about Wallace similar to Schoenberg, neither discloses “display of medical notes, laboratory results or ventilator data in a single panel”; Examiner respectfully submits that Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously, each of data sets can be displayed in a variety of formats, including graphical, tabular, bar chart and pie chart formats, with or without split screen. Therefore Schoenberg teaches first, second and third panels, which are in any format described above. Also, Applicant argues that Schoenberg does not teach a third panel, which displays “user selected **one of** user-entered medical notes, medical laboratory results and ventilator data”; Examiner respectfully submits that claim recites any one of medical notes, medical laboratory results and ventilator data; and as Applicant admits that Schoenberg teaches user entry of medical notes and acquisition of medical laboratory results (remarks; page 7, last paragraph).

E. In response to Applicant's argument about Wallace does not teach "a processor for acquiring data associated with a patient from at least one of the plurality of sources, the processor prioritizing the acquired data for display in a desired order"; Examiner respectfully submits that Schoenberg teaches these limitations as explained in claims 1 and 11 above.

F. In response to Applicant's argument about there is no reasons or motivation to combine Schoenberg and Wallace; Examiner respectfully submits that Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously, each of data sets can be displayed in a variety of formats (Schoenberg; paragraph 0054); the medical information system receives patient information from a wide variety of sources, such as, doctors, pharmacists, patient monitoring equipment, testing laboratories, and other computer databases (Schoenberg; paragraph 0012). Schoenberg also teaches in paragraph 0031 that "A plurality of patient bedside monitors (such as a Hewlett-Packard Model M66 Merlin monitor) and other instruments (such as Puritan-Bennett Model 7200 ventilator), denoted M1, M2, . . . M.sub.n in FIG. 1, are coupled by way of separate interface units, I1, I2, . . . , I.sub.n respectively, to the display controller 14."

Schoenberg does not teach "the ventilator data comprises at least one of a ventilator setting and ventilator parameter"; and Wallace teaches at least two touch sensitive screen displays (col. 3, lines 49-56), provide displays of patient

data, alarm conditions and other information (col. 3, lines 14-18), and a vent settings screen in figure 8. The motivation to combine these two references is to configure a therapy that is customized for the particular patient (Wallace; col. 4, lines 6-11).

G. In response to Applicant's argument about neither of these references teach "a cursor is displayed indicating a selected time during the selected time frame" and "a time display field displays the time corresponding to the selected cursor time", Schoenberg teaches "The controller 14 includes a user device (keyboard/pointer 22) which is responsive to a user selection action for generating a selection signal. The user device may be any kind of selection device, for example, a keyboard (with cursor control), mouse, light pen, trackball, touch pad, or voice controlled pointer provided by speech recognition software." in paragraph 0037. Schoenberg also teaches reference parameter is time in paragraph 0053, time scale can be selectively changed by a user in paragraph 0054.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DBC

Art Unit 3626
08/16/2007


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